

REMARKS

By this amendment, Applicant has amended claims 1, 18, and 44. No new matter has been added. The amendments place the claims facially in condition for allowance. No new search is needed, as the structure has been exhaustively and repeatedly searched already. Claims 1-9, 12, 18-22, and 40-47 remain for consideration in this application.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 4-5 and 40-41 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fabrice (U.S. Patent No. 2,113,176). Applicant once again traverses, for several reasons. First, the Office Action at Page 3 alleges that Applicant has admitted on page 7 of its last response that “the structure of the device is equivalent to that of applicant’s.” Applicant has never made any such admission, and can find only statements that the structure of Fabrice differs from that of the claims in its last response. No admission has been made or is made that the Fabrice cap is equivalent to the claimed cap.

Applicant has amended claim 1 to recite that the cap is permanent and non-frangible. Page 13, lines 27-28 of the specification of the present application provide support for the amendment to claim 1 to include the structure of the cap having a permanent and non-frangible flange. As amended, the claim recites that the cap has a permanent and non-frangible nature of the cap flange. The cap flange is an integral part of the cap. It does not break away. This permanence is related to the structure of the cap. In contrast, the cap flange of Fabrice is clearly non-permanent, in that it contains a break-away portion. This difference in structure does not pertain to use. In use, the caps will clearly operate differently, but the difference is in the structure. As claimed, the cap of the present claim has a permanent and non-frangible flange. Fabrice clearly does not have a permanent non-frangible flange.

Since Fabrice does not have a permanent, non-frangible cap flange, Fabrice does not contain each and every element of the claims, and claim 1 is allowable. Applicant respectfully submits that caps and flanges of all sorts and types have been repeatedly searched, and that no further searching is required to give this amendment full treatment given the art already of record

in the application. Claims 4-5 and 40-41 depend from and further define patentably distinct claim 1, and are also believed allowable.

Claim Rejections Under 35 U.S.C. § 103

Claims 7-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabrice (U.S. Patent No. 2,113,176). Applicant traverses. The structural differences between Fabrice and claim 1 have already been described above with respect to the rejection of claim 1, but those arguments apply equally to claims 7-9, as claims 7-9 depend from and further define patentably distinct claim 1. Claims 7-9 are allowable.

Claims 2-3, 6 and 44-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabrice as applied to claims 1, 4-5 and 40-41 above, and further in view of Long Jr. (U.S. Patent No. 6,059,134). Claims 2-3 and 6 depend directly or indirectly from and further define patentably distinct claim 1, and are believed allowable. Long Jr. does not provide any support for the element of claim 1 that is not present in Fabrice, namely the permanent, non-frangible cap flange of claim 1. As such, no combination of Fabrice and Long Jr. contains each and every element of claim 1, and therefore of claims 2-3 and 6 are allowable.

Claim 44 as amended recites that the cap flange is permanent and non-frangible. As has been discussed above, Fabrice does not contain that structure, nor does Long Jr., nor does any combination thereof. As such, claim 44 is allowable for the reasons set forth above in support of the allowance of claim 1. Claims 45-47 depend from and further define patentably distinct claim 44, and are also believed allowable.

Claims 18-19 and 42-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Konefal et al. (U.S. Patent No. 6,039,195) in view of Fabrice. Applicant traverses.

Claims 18 and 44 have been amended similarly to claim 1 to recite that the cap flange is permanent and non-frangible. As has been discussed above, Fabrice does not contain such a structure. Nor does Konefal et al., nor any combination thereof with Fabrice. As such, claims 18 and 44 contain subject matter not present, taught, or suggested by any combination of Konefal et al. and Fabrice, and as such, claims 18 and 44 are allowable. Claims 19, 42-43, and 45-47 depend from and further define one of patentably distinct claims 18 or 44, and are also believed allowable.

Claims 20-22 and 42-47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Konefal et al. in view of Fabrice as applied to claims 18-19 and 42-47 above and further in view of Long, Jr. Applicant traverses.

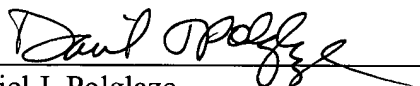
The combination of Konefal et al. and Fabrice has been discussed in detail above. Those arguments are incorporated herein in their entirety, but are not repeated for purposes of brevity. Long Jr. is applied to add in disjointed threads. However, the combination of Konefal et al. and Fabrice is still fatally lacking the element of parent claims 18 or 44, namely the permanent and non-frangible cap flange, and Long Jr. does not add that element. As such, no combination of Konefal et al, Fabrice, and Long Jr. contains, teaches, or suggests, each and every element of the claims. Claims 20-22 and 42-47 are allowable.

CONCLUSION

Applicant has repeatedly shown where structure of the present claims differs patentably from structure, teachings, or suggestions of the cited art either singularly or in any combination thereof, and respectfully requests that the rejections be withdrawn, and that a notice of allowance be issued. No new matter has been added, and no further search is needed. The claims are facially in condition for allowance. If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2203.

Respectfully submitted,

Date: 18 Jan. 2006



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